

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Penalty Assessment Against
EDWARD MCINTIRE D/B/A EAGLES
CONNECTION, in the Amount of \$100

DOCKET NO. TC-060989

DECLARATION OF
SHERI HOYT

SHERI HOYT, under penalty of perjury under the laws of the state of Washington, declares as follows:

1. I am over 18 years of age, a citizen of the United States, a resident of the state of Washington, and competent to be a witness.
2. I am employed by the Washington Utilities and Transportation Commission (Commission) as a Compliance Specialist in the Business Practices Investigations Section. I have been employed at the Commission for over 13 years, holding various positions. As a Compliance Specialist, my responsibilities include conducting investigations regarding the business practices of regulated utility or transportation companies. As part of those duties, I investigate auto transportation providers that may be operating in violation of Commission statute, rule, or tariff.
3. On July 19, 2006, Edward McIntire d/b/a Eagles Connection (Eagles Connection) filed with the Commission an Application for Mitigation (Mitigation Application) in Docket No. TC-060989. I have read the Mitigation Application. In the Mitigation Application, the company admits the violation, waives a hearing, and asks for an administrative decision.
4. This Mitigation Application arises from a Notice of Penalties Incurred and Due for Violations of Laws and Rules issued by the Commission on June 30, 2006, in Docket No. TC-060989. In that Notice, the Commission issued a penalty of \$100 for a violation of Washington Administrative Code 480-30-120, which requires auto transportation providers to file annual reports with the Commission no later than May 1 each year.
5. Before recommending the Commission issue penalties, as part of my job, I conducted an investigation of Eagles Connection's records. My investigation resulted in an investigation report titled, "Staff Investigation - 2005 Annual Reports." A true and accurate copy of that investigation report is attached to this declaration as Attachment A.
6. I identified the violation in this case from records maintained by the Commission.

Specific Issues Addressed by Eagles Connection in its Mitigation Application

The company was no longer in business as of December 31, 2005.

7. In its Mitigation Application, Eagles Connection states it informed Officer McLoed in January 2006 that the company was no longer in business as of December 31, 2006. Eagles Connection did not renew its vehicle regulatory registration because it was no longer in business. The company did not complete the report because it was no longer in business.
8. There is no one employed by the Washington Utilities and Transportation Commission with a last name of McLoed. Penalty Assessment TC-060989 was issued to Eagles Connection for the company's failure to timely file its 2005 Annual Report. The company operated and held a valid auto transportation certificate in the year 2005, therefore, it is required to file the 2005 Annual Report.

Eagles Connection states the Commission was notified by its insurance company that the required liability insurance was canceled in January 2006.

9. The Commission was notified by Eagles Connection's insurance company in February 2006 that the company's insurance would be canceled effective March 6, 2006. However, this does not negate the company's requirement to file an annual report for its 2005 operations.

Eagles Connection states all of its charters and licenses have been transferred to another company.

10. Eagles Connection has held three permits issued by the Commission, a Passenger Charter permit, an Excursion Service permit, and an Auto Transportation permit. The Charter Carrier permit and Excursion Service Carrier permit were canceled in April 2006 and March 2006, respectively, for lack of insurance on file. The Auto Transportation permit has been suspended since March 10, 2006, due to no insurance on file. There is currently an Application for Transfer pending to transfer all authority held under Eagle Connections' Auto Transportation permit to another regulated carrier. The acquiring carrier has not completed necessary paperwork and the transfer has been delayed. The permit remains in a suspended status.

Eagles Connection states it assumed the Commission knew it was no longer in business and had not made any money for 2005, having lost over \$10,000 and still paying off debts. The company assumed the report was not required and that it received the report as part of a blanket mailing.

11. The 2005 Annual Report is for operations conducted in 2005. The company operated in 2005, so it was required to file the 2005 Annual Report. The Commission has no way of knowing a company's gross operations for any year until it receives the annual report. Filing an annual report is required even if a company's gross operations are zero.

Staff Recommendation

12. Because Eagles Connection held an auto transportation permit in 2005, it was required to file an annual report. The company's mistaken assumption that filing was not required does not excuse the company from timely filing its annual report and does not justify mitigating the penalty.

DATED this 3rd day of August 2006 at Olympia, Washington.

SHERI HOYT

Attachment A

Auto Transportation Providers Staff Investigation - 2005 Annual Reports June 14, 2006

Purpose

The purpose of this investigation is to determine if 10 auto transportation providers¹ violated Washington Administrative Code (WAC) 480-30-120. WAC 480-30-120 requires auto transportation providers to furnish annual reports to the commission no later than May 1 each year.

Background

This investigation was prompted by commission staff's yearly review of annual reports for auto transportation providers registered in the state of Washington.

On March 8, 2006, the commission mailed 2005 Annual Report forms and 2006 Regulatory Fee packets to auto transportation providers registered in the state of Washington. A letter signed by Executive Secretary Carole Washburn instructed companies to file annual reports and pay regulatory fees by May 1, 2006². The letter stated that failure to file the annual report by May 1 would result in a penalty and possible cancellation of their permit. In addition, the letter required companies requesting an extension to file the annual report to do so prior to May 1.

Investigation

The 10 auto transportation providers listed in attached Appendix A failed to file their 2005 annual report by the May 1 deadline. A review of the commission's Records Management System revealed that none of the auto transportation providers requested an exemption from WAC 480-30-120 to late file their 2005 annual report.

Recommendation:

Penalize the 10 auto transportation providers \$100 each for one violation of WAC 480-30-120, failing to file the 2005 annual report by May 1, 2006.

¹ See Appendix A for a list of the 10 auto transportation providers.

² See Appendix B for a copy of the March 8, 2006, letter sent to auto transportation providers.

Appendix A

	Company Name	Received Yes or No	If yes, Date Received
1.	A & B Peninsula Airporter LLC f/k/a Barry & Amy Muhlbaier	Yes	May 31, 2006
2.	All-Ways Transportation, Inc.	Yes	May 30, 2006
3.	Bremerton-Kitsap Airporter, Inc.	Yes	May 2, 2006
4.	Diamond-West Transportation Co., Inc.	No	
5.	Edward McIntire	No	
6.	Evergreen Trails, Inc.	No	
7.	Genie Service Company, Inc.	No	
8.	Masters, Edward	No	
9.	Miller Schmer Inc.	Yes	May 2, 2006
10.	Thompson, William R. d/b/a Star & Stripes Shuttle	Yes	May 4, 2006

Appendix B



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY (360) 586-8203

March 8, 2006

Subject: Your Auto Transportation Annual Report and Regulatory Fees are Due May 1

State law requires you to file an annual report and pay regulatory fees to the Washington Utilities and Transportation Commission.

What is required of me?

By May 1, you must:

- Complete and file the enclosed 2005 annual report form
- Pay your 2006 regulatory fees

Failure to file your annual report or pay regulatory fees by May 1 will result in a penalty and possible cancellation of your permit to operate in Washington. This is the only notice you will receive from the commission.

What happens if I do not pay my regulatory fees by May 1?

If regulatory fees are not paid by May 1, you will incur:

- a 2 percent penalty on the amount due; and
- a 1 percent monthly interest charge on the unpaid balance.

Can I request an extension of time if I am unable to file the annual report by May 1?

Yes, you must provide the request in writing, including a valid reason for the extension by May 1. We will notify you when your request is approved or denied. You will still be liable for penalty and interest payments if you fail to pay your regulatory fees by May 1. If you are late filing your annual report or fail to file, you could incur additional penalties up to \$100 a day.

Where do I mail the completed annual report form and regulatory fee payment?

Washington Utilities and Transportation Commission
PO Box 47250
Olympia, WA 98504-7250



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Where can I obtain an electronic version of the annual report?

Forms are available on our website at www.wutc.wa.gov. Locate "Quick Links" then select "2005 annual reports".

Who do I contact if I have questions?

You may call 360-664-1201 or e-mail us at: annualreports@wutc.wa.gov. If you need this information in an alternate format, please call 360-664-1133. TTY Toll Free phone number is 1-800-416-5289 or 360-586-8203.

Sincerely,



Carole J. Washburn
Executive Secretary

Enclosures